

ever, since a railroad cannot liquidate its assets and sell them for scrap to satisfy its creditors, the test focuses on the value of the railroad as a going concern. That is, the test is based on what the assets, sold as operating rail lines, would bring.

The public interest requirement, found in current law, will now be decided by the court, with the ICC representing the public interest before the court, rather than in the first instance by the ICC. Liquidation of the debtor is not, per se, contrary to the public interest.

AMENDMENTS

1984—Subsec. (a)(4). Pub. L. 98-353 substituted “consistent” for “compatible”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 347, 1165, 1174 of this title; title 26 section 354.

§ 1174. Liquidation

On request of a party in interest and after notice and a hearing, the court may, or, if a plan has not been confirmed under section 1173 of this title before five years after the date of the order for relief, the court shall, order the trustee to cease the debtor's operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of this title.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2644.)

HISTORICAL AND REVISION NOTES

LEGISLATIVE STATEMENTS

Section 1174 of the House amendment represents a compromise between the House bill and Senate amendment on the issue of liquidation of a railroad. The provision permits a party in interest at any time to request liquidation. In addition, if a plan has not been confirmed under section 1173 of the House amendment before 5 years after the date of order for relief, the court must order the trustee to cease the debtor's operation and to collect and reduce to money all of the property of the estate in the same manner as if the case were a case under chapter 7 of title 11. The approach differs from the conversion to chapter 7 under section 1174 of the Senate bill in order to make special provisions contained in subchapter IV of chapter 11 applicable to liquidation. However, maintaining liquidation in the context of chapter 11 is not intended to delay liquidation of the railroad to a different extent than if the case were converted to chapter 7.

Although the House amendment does not adopt provisions contained in sections 1170(1), (2), (3), or (5), of the Senate amendment such provisions are contained explicitly or implicitly in section 1123 of the House amendment.

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Section 1174 permits the court to convert the case to a liquidation under chapter 7 if the court finds that the debtor cannot be reorganized, or if various time limits specified in the subchapter are not met. Section 77 [section 205 of former title 11] does not authorize a liquidation of a railroad under the Bankruptcy Act [former title 11]. If the railroad is not reorganizable, the only action open to the court is to dismiss the petition, which would in all likelihood be followed by a State court receivership, with all of its attendant disadvantages. If reorganization is impossible, the debtor should be liquidated under the Bankruptcy Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1165 of this title.

CHAPTER 12—ADJUSTMENT OF DEBTS OF A FAMILY FARMER WITH REGULAR ANNUAL INCOME

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

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- 1202. Trustee.
- 1203. Rights and powers of debtor.
- 1204. Removal of debtor as debtor in possession.
- 1205. Adequate protection.
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- 1221. Filing of plan.
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- 1225. Confirmation of plan.
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REPEAL OF CHAPTER

Pub. L. 99-554, title III, § 302(f), Oct. 27, 1986, 100 Stat. 3124, as amended by Pub. L. 103-65, § 1, Aug. 6, 1993, 107 Stat. 311, provided that, effective Oct. 1, 1998, this chapter is repealed, that all cases commenced or pending under this chapter, and all matters and proceedings in or relating to such cases, shall be conducted and determined under this chapter as if such chapter had not been repealed, and that the substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws applicable to such cases, matters, and proceedings as if such chapter had not been repealed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 103, 109, 321, 326, 327, 329, 330, 346, 347, 362, 363, 365, 502, 706, 1106, 1112, 1306, 1307 of this title; title 7 section 2005; title 20 section 1087; title 28 sections 157, 586, 1930.

SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

§ 1201. Stay of action against codebtor

(a) Except as provided in subsections (b) and (c) of this section, after the order for relief under this chapter, a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor, or that secured such debt, unless—

(1) such individual became liable on or secured such debt in the ordinary course of such individual's business; or

(2) the case is closed, dismissed, or converted to a case under chapter 7 of this title.

(b) A creditor may present a negotiable instrument, and may give notice of dishonor of such an instrument.